IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LUCAS CULIN,

Plaintiff,

vs. 12-cv-00478 RHS/WDS

STEVEN SILVERSMITH, in his individual and official capacities as Warden/Acting Warden/Deputy Warden or Administrator/Acting Administrator/Acting Deputy Administrator of the McKinley County Detention Center, DONNA GOODRICH, in her individual and official capacities as the Warden/Director of the McKinley County Detention Center, JOHN DOES and JANE DOES 1-20, unknown officers employed at the McKinley County Adult Detention Center in their individual and official capacities, ADRIAN DIAZ, in his individual and official capacities as an officer with the Santa Clara Tribal Police Department; the RIO ARRIBA COUNTY BOARD OF COMMISSIONERS, a municipal entity organized under the laws of the State of New Mexico, the MCKINLEY COUNTY BOARD OF COMMISSIONERS, a municipal entity organized under the laws of the State of New Mexico and its subsidiary, the McKinley County Detention Center,

Defendants.

ANSWER OF DEFENDANT RIO ARRIBA COUNTY BOARD OF COUNTY COMMISSIONERS TO COMPLAINT FOR DAMAGES FOR DEPRIVATION OF CIVIL AND CONSTITUTIONAL RIGHTS, COMMON LAW TORTS AND STATUTORY RIGHTS

COMES NOW Defendant, Rio Arriba County Board of County Commissioners, by and through its counsel of record, French & Associates, P.C. (Robert W. Becker, appearing), and by way of answer to Plaintiff's Complaint, states the following:

INTRODUCTION

1. Defendant admits that the Complaint purports to allege federal civil rights, state common law claims and statutory violations but denies any acts/inactions that would confer liability under any such theories of recovery.

2. The allegations of Paragraph 2 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 2 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2.

3. The allegations of Paragraph 3 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 3 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3.

4. The allegations of Paragraph 4 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 4 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4.

5. The allegations of Paragraph 5 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 5 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5.

6. The allegations of Paragraph 6 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 6 are directed to this Defendant, this

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6.

7. The allegations of Paragraph 7 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 7 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.

8. The allegations of Paragraph 8 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 8 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8.

9. The allegations of Paragraph 9 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 9 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9.

10. The allegations of Paragraph 10 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 10 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10.

11. This Defendant denies the allegations of Paragraph 11.

PARTIES

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations of Paragraph 12.

13. Defendant admits the allegations of sentence 1 of Paragraph 13. Defendant denies the allegations of sentence 2 of Paragraph 13. Defendant admits the allegations of sentence 3 of Paragraph 13. Defendant denies the allegations of sentences 4 and 5 of Paragraph 13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of sentence 6 of Paragraph 13.

14. The allegations of Paragraph 14 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 14 are directed to this Defendant, Defendant admits sentence 1 of the allegations of Paragraph 14. Defendant denies sentence 2 of the allegations of Paragraph 14. Defendant admits sentence 3 of the allegations of Paragraph 14. Defendant denies sentences 4 and 5 of the allegations of Paragraph 14.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15.

16. The allegations of Paragraph 16 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 16 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16.

17. The allegations of Paragraph 17 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 17 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17.

18. The allegations of Paragraph 18 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 18 are directed to this Defendant, this

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18.

JURISDICTION AND VENUE

19. Defendant denies the allegations of Paragraph 19.

20. Defendant admits the allegations of Paragraph 20.

BASIS FOR CAUSES OF ACTION

21. Defendant admits that Plaintiff purports to bring claims under 42 U.S.C. § 1983, the New Mexico Tort Claims Act, New Mexico Rule 6-201 and Rule 6-203, as well as the U.S. and New Mexico Constitutions and New Mexico common law, but denies any actions/inactions that would confer liability under any of these theories of recovery.

FACTS COMMON TO ALL CAUSES OF ACTION

22. Defendant admits the allegation of Paragraph 22 but states that the statement of probable cause signed by Officer Diaz indicates that Espanola City Police Officer Robert Vigil was to co-sign the criminal complaint and probable cause.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 23.

24. Defendant denies the allegations of Paragraph 24.

25. Defendant denies the allegations of Paragraph 25.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 27.

28. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29.

30. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31.

32. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32.

33. Defendant denies the allegations of Paragraph 33.

34. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34.

35. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 35.

36. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36

37. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37.

38. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 38.

39. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 39.

40. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 40.

41. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 41.

42. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 42.

43. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 43.

44. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 44.

45. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 45.

46. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 46.

47. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 47.

48. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 48.

49. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 49.

50. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 50.

51. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 51.

52. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 52.

53. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 53.

54. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 54.

55. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 55.

56. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 56.

57. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 57.

58. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 58.

59. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 59.

60. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 60.

61. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 61.

62. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 62.

63. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 63.

64. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 64.

65. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 65.

66. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 66.

67. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 67.

68. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 68.

69. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 69.

70. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 70.

71. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 71.

72. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 72.

73. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 73.

74. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 74.

75. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 75.

76. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 76.

77. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 77.

78. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 78.

FIRST CAUSE OF ACTION (CLAIMS AGAINST DEFENDANT MCKINLEY AND RIO ARRIBA COUNTIES FOR DEPRIVATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983)

79. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

80. Defendant denies the allegations of Paragraph 80.

81. Defendant denies the allegations of Paragraph 81.

82. Defendant denies the allegations of Paragraph 82.

83. Defendant denies the allegations of Paragraph 83.

84. Defendant denies the allegations of Paragraph 84.

85. Defendant denies the allegations of Paragraph 85.

86. The allegations of Paragraph 86 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 86 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 86.

87. The allegations of Paragraph 86 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 87 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 87.

88. The allegations of Paragraph 88 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 88 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 88.

89. The allegations of Paragraph 89 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 89 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 89.

90. Defendant denies the allegations of Paragraph 90.

91. Defendant denies the allegations of Paragraph 91.

92. Defendant denies the allegations of Paragraph 92.

93. Defendant denies the allegations of Paragraph 93.

94. Defendant denies the allegations of Paragraph 94.

95. Defendant denies the allegations of Paragraph 95.

96. Defendant denies the allegations of Paragraph 96.

97. Defendant denies the allegations of Paragraph 97.

98. Defendant denies the allegations of Paragraph 98.

99. Defendant denies the allegations of Paragraph 99.

100. Defendant denies the allegations of Paragraph 100.

101. Defendant denies the allegations of Paragraph 101.

102. The allegations of Paragraph 102 are not directed to this Defendant. To the extent that it can be construed that the allegations of 102 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of 102.

103. Defendant denies the allegations of Paragraph 103.

SECOND CAUSE OF ACTION (SUPERVISORY LIABILITY CLAIMS AGAINST GOODRICH, SILVERSMITH AND JANE DOES FOR DEPRIVATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983)

104. This Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

105. The allegations of Paragraph 105 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 105 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 105.

106. The allegations of Paragraph 106 are not directed to this Defendant. To the extent that it can be construed that the allegations of 106 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 106.

107. The allegations of Paragraph 107 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 107 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 107.

108. The allegations of Paragraph 108 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 108 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 108.

109. The allegations of Paragraph 109 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 109 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 109.

110. The allegations of Paragraph 110 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 110 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 110.

111. The allegations of Paragraph 111 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 111 are directed to this

Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 111.

112. The allegations of Paragraph 112 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 112 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 112.

113. The allegations of Paragraph 113 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 113 are directed to this Defendant, this Defendant denies the allegations of Paragraph 113.

114. The allegations of Paragraph 114 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 114 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 114

115. The allegations of Paragraph 115 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 115 are directed to this Defendant, this Defendant denies the allegations of Paragraph 115.

116. The allegations of Paragraph 116 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 116 are directed to this Defendant, this Defendant denies the allegations of Paragraph 116.

THIRD CAUSE OF ACTION (CLAIMS AGAINST DEFENDANTS JOHN DOES AND JANE DOES FOR DEPRIVATION OF CIVIL RIGHTS UNDER 42 U.S.C. § 1983)

117. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

118. The allegations of Paragraph 118 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 118 are directed to this Defendant, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 118.

119. The allegations of Paragraph 119 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 119 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 119.

120. The allegations of Paragraph 120 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 120 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 120.

121. The allegations of Paragraph 121 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 121 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 121.

122. The allegations of Paragraph 122 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 122 are directed to this

123. The allegations of Paragraph 123 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 123 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 123.

124. The allegations of Paragraph 124 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 124 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 124.

125. The allegations of Paragraph 125 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 125 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 125.

126. The allegations of Paragraph 126 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 126 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 126.

127. The allegations of Paragraph 127 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 127 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 127.

128. The allegations of Paragraph 128 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 128 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 128.

129. The allegations of Paragraph 129 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 129 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 129.

130. The allegations of Paragraph 130 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 130 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 130.

131. The allegations of Paragraph 131 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 131 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 131.

132. The allegations of Paragraph 132 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 132 are directed to this Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 132.

133. The allegations of Paragraph 133 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 133 are directed to this

Defendant, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 133.

134. Defendant denies the allegations of Paragraph 134.

FOURTH CAUSE OF ACTION (CLAIMS AGAINST DEFENDANTS FOR VIOLATION OF COMMON LAW - NEGLIGENT FAILURE TO PROTECT, AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

135. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

136. The allegations of Paragraph 136 allege conclusions of law for which no response is required. To the extent that it can be construed that the allegations of Paragraph 136 allege facts, this Defendant denies the allegations of Paragraph 136.

137. The allegations of Paragraph 137 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 137 are directed to this Defendant, this Defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 137.

138. The allegations of Paragraph 138 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 138 are directed to this Defendant, this Defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 138.

139. The allegations of Paragraph 139 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 139 are directed to this Defendant, this Defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations of Paragraph 139.

140. The allegations of Paragraph 140 allege conclusions of law for which no response is required. To the extent that is can be construed that the allegations of Paragraph 140 allege facts, this Defendants denies the allegations of Paragraph 140.

141. The allegations of Paragraph 141 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 141 are directed to this Defendant, this Defendant denies the allegations of Paragraph 141.

142. The allegations of Paragraph 142 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 142 are directed to this Defendant, this Defendant denies the allegations of Paragraph 142.

143. The allegations of Paragraph 143 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 143 are directed to this Defendant, this Defendant denies the allegations of Paragraph 143.

144. The allegations of Paragraph 144 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 144 are directed to this Defendant, this Defendant denies the allegations of Paragraph 144.

145. Defendant denies the allegations of Paragraph 145.

FIFTH CAUSE OF ACTION
(CLAIM AGAINST THE DEFENDANTS FOR CIVIL CONSPIRACY)

146. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

147. The allegations of Paragraph 147 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 147 are directed to this Defendant, this Defendant denies the allegations of Paragraph 147.

148. The allegations of Paragraph 148 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 148 are directed to this Defendant, this Defendant denies the allegations of Paragraph 148.

149. The allegations of Paragraph 149 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 149 are directed to this Defendant, this Defendant denies the allegations of Paragraph 149.

150. The allegations of Paragraph 150 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 150 are directed to this Defendant, this Defendant denies the allegations of Paragraph 150.

151. Defendant denies the allegations of Paragraph 151.

SIXTH CAUSE OF ACTION (AGAINST DEFENDANTS RIO ARRIBA COUNTY, MCKINLEY COUNTY, GOODRICH AND SILVERSMITH FOR THE COMMISSION OF UNLAWFUL DETENTION)

152. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

153. Defendant denies the allegations of Paragraph 153.

154. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 154.

155. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 155.

156. Defendant denies the allegations of Paragraph 156.

157. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 157.

158. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 158.

159. Defendant denies the allegations of Paragraph 159.

160. Defendant denies the allegations of Paragraph 160.

161. Defendant denies the allegations of Paragraph 161.

162. Defendant denies the allegations of Paragraph 162.

163. Defendant denies the allegations of Paragraph 163.

164. Defendant denies the allegations of Paragraph 164.

165. Defendant denies the allegations of Paragraph 165.

166. Defendant denies the allegations of Paragraph 166.

167. Defendant denies the allegations of Paragraph 167.

SEVENTH CAUSE OF ACTION (AGAINST DEFENDANTS RIO ARRIBA COUNTY, MCKINLEY COUNTY, GOODRICH AND SILVERSMITH TO THE COMMISSION OF UNLAWFUL DETENTION FOR NEGLIGENCE PER SE AND COMMON LAW NEGLIGENCE)

168. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.Defendant admits the allegations of Paragraph 169.

169. Defendant denies the allegations of Paragraph 170.

170. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 171.

171. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 172.

172. The allegations of Paragraph 173 allege conclusions of law to which no response is required. To the extent that it can be construed that the allegations of Paragraph 173 allege facts, Defendant admits the allegations of Paragraph 173.

173. The allegations of Paragraph 174 allege conclusions of law to which no response is required. To the extent that it can be construed that the allegations of Paragraph 174 allege facts, Defendant admits the allegations of Paragraph 174.

174. Defendant admits the allegations of Paragraph 175.

175. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 176.

176. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 177.

177. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 178.

178. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 179.

179. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 180.

180. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 181.

181. Defendant denies the allegations of Paragraph 182.

182. Defendant denies the allegations of Paragraph 183.

183. Defendant denies the allegations of Paragraph 184.

184. The allegations of Paragraph 185 are not directed to this Defendant. To the extent that it can be construed that the allegations of Paragraph 185 are directed to this Defendant, this Defendant denies the allegations of Paragraph 185.

185. Defendant denies the allegations of Paragraph 186.

186. Defendant denies the allegations of Paragraph 187.

187. Defendant denies the allegations of Paragraph 188.

188. Defendant denies the allegations of Paragraph 189.

189. Defendant denies the allegations of Paragraph 190.

EIGHTH CAUSE OF ACTION (AGAINST ALL DEFENDANTS FOR CLAIMS ARISING UNDER THE NEW MEXICO TORT CLAIMS ACT)

190. Defendant repeats and realleges each and every answer to the previous allegations as if set forth at length herein.

191. Defendant denies the allegations of Paragraph 192.

192. Defendant denies the allegations of Paragraph 193.

193. Defendant denies the allegations of Paragraph 194.

194. Defendant denies the allegations of Paragraph 195.

JURY TRIAL

195. Defendant admits that Plaintiff has requested a jury trial.

DAMAGES

A. Defendant denies the allegations of Paragraph A.

B. Defendant denies the allegations of Paragraph B.

C. Defendant denies the allegations of Paragraph C.

D. Defendant denies the allegations of Paragraph D.

E. Defendant denies the allegations of Paragraph E.

CONCLUSION

A. Defendant denies the allegations of Paragraph A.

B. Defendant denies the allegations of Paragraph B.

C. Defendant denies the allegations of Paragraph C.

D. Defendant denies the allegations of Paragraph D.

E. Defendant denies the allegations of Paragraph E.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim against this Defendant in that Santa Clara Tribal Officer Adrian Diaz, even if cross commissioned as a deputy county sheriff, which is not admitted, is not a public employee of Rio Arriba County pursuant to Williams v. Board of County Commissioners of San Juan County, 125 N.M. 445 (Ct. App. 1998), cert. denied, 125 N.M. 654 (1998).

SECOND AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim against this Defendant in that the Rio Arriba Magistrate Court is a state administered court, not a county administered court, pursuant to NMSA 1978, § 35-7-1 et. seq.

THIRD AFFIRMATIVE DEFENSE

In the event that it is determined that the Rio Arriba Magistrate Court violated Plaintiff's rights and that it is an agent of this Defendant, suit would not lie against this Defendant because said court enjoys absolute immunity from suit.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claim based on a strip search in the absence of reasonable suspicion fails to state a claim in light of the United States Supreme Court holding in Florence v. Board of Chosen Freeholders of County of Burlington, 132 S.Ct. 1510 (2012).

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's supervisory liability claim against this Defendant fails to state a claim pursuant to the United State Supreme Court holdings in Bell Atlantic v. Twombley, 550 U.S. 544 (2007) and Ashcroft v. Iqbal, 556 U.S. 662 (2009).

SIXTH AFFIRMATIVE DEFENSE

Any claims asserted against this Defendant based on alleged procedural irregularities in Plaintiff's criminal case post-arrest were waived by Plaintiff's no contest pleas to resisting, evading or obstructing an officer and driving on a suspended driver's license.

SEVENTH AFFIRMATIVE DEFENSE

As a pre-trial detainee, Plaintiff fails to state an Eighth Amendment claim.

EIGHTH AFFIRMATIVE DEFENSE

As to any state law claims asserted against this Defendant, said claims are not cognizable against this Defendant as there is no applicable waiver of sovereign immunity, either as to the claims, or as to the ability to sue this entity for its own alleged actionable behavior.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims for punitive damages as to any state law claims asserted against this Defendant are barred by the New Mexico Tort Claims Act.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims for pre-judgment interest are barred by the New Mexico Tort Claims Act.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to name an indispensable party as to the supervisory type liability claims, that being the Santa Clara Pueblo which employed Defendant Adrian Diaz at all times material to the allegations of the Complaint.

TWELFTH AFFIRMATIVE DEFENSE

As to any state law claims alleged against this Defendant to which the principle of comparative negligence applies, any judgment awarded to Plaintiff against this Defendant should be reduced by the comparative negligence of Plaintiff or third parties.

THIRTEENTH AFFIRMATIVE DEFENSE

Any claim predicated in New Mexico statutory law fails to state a claim, based on either lack of waiver of sovereign immunity under the New Mexico Tort Claims Act or because the cited statutes do not provide for a private right of action.

FOURTEENTH AFFIRMATIVE DEFENSE

In the event that it is determined that Plaintiff was in custody at the time of the filing of this suit, Plaintiff's suit is subject to dismissal for failure to exhaust administrative remedies pursuant to the Prison Litigation Reform Act regarding his prison condition claims.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendant reserves the right to assert additional affirmative defenses based upon what subsequent discovery might reveal.

JURY DEMAND

Defendant demands trial by jury on all issues to triable.

WHEREFORE, Defendant Rio Arriba County Board of County Commissioners, demands judgment dismissing the Complaint with prejudice and awarding those costs as allowed by law.

Respectfully Submitted,

FRENCH & ASSOCIATES, P.C.

Electronically filed

By: ***/s/ Robert W. Becker, Esq.***

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I HEREBY CERTIFY that on the 10th day of August, 2012, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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